

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

KEVIN A. TOLLIVER,

Plaintiff,

vs.

**Case No.: 2:17-cv-806
JUDGE GEORGE C. SMITH
Magistrate Judge Jolson**

**REGIONAL DIRECTOR
ROBERT JEFFRIES, *et al.*,**

Defendants.

ORDER

On January 28, 2019, the United States Magistrate Judge issued a *Report and Recommendation* recommending that this case be dismissed as duplicative. (*See Report and Recommendation*, Doc. 17). The parties were advised of their right to object to the *Report and Recommendation* and of the consequences of their failure to do so. This matter is now before the Court on Plaintiff's Objections to the *Report and Recommendation and Order*. (*See* Doc. 18). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

In Plaintiff's Objections, he asserts that he "objects to dismissal of the 2017 complaint, only to the extent that Defendant's may claim some technicality of procedure to a part thereof (e.g. exhaustion of state remedy, statute of limitations, etc.) as to joined issues." (Doc. 18 at 1). He also notes that he has been denied appoint of counsel and is not sure how dismissal could prejudice his claims. Plaintiff also seems to acknowledge that this matter would be resolved more efficiently all in one case.

The Court has carefully considered Plaintiff's arguments and his objections; however, the Court agrees with the reasoning set forth by the Magistrate Judge in her Order. The Court agrees that Plaintiff is not entitled to appointment of counsel. Further, the Court also agrees that Plaintiff has filed two nearly identical lawsuits in this Court and does not have the right to maintain both cases. The prior case, *Tolliver v. Nobel, et al*, No. 2:16-cv-1020 (S.D. Ohio 2016), contains an Amended Complaint that has the same claims asserted in this case. "Plaintiffs generally have no right to maintain two separate actions involving the same subject matter at the same time in the same court and against the same defendants." *Belser v. Washington*, No. 1:16-CV-1205, 2016 WL 6275343, at *1 (W.D. Mich. Oct. 27, 2016), *aff'd sub nom. Belser v. Washington*, No. 16-2634, 2017 WL 5664908 (6th Cir. Sept. 13, 2017) (citation and internal quotation marks omitted). "Accordingly, as part of its inherent power to administer its docket, a district court may dismiss a suit that is duplicative of another federal court suit." *Id.* (citation and internal quotation marks omitted).

Therefore, for the reasons stated in detail in the *Report and Recommendation*, this Court finds that Plaintiff's objections are without merit and are hereby **OVERRULED**.

The *Report and Recommendation*, Document 17, is **ADOPTED** and **AFFIRMED**. Plaintiff's Complaint in this case is hereby dismissed as duplicative of the aforementioned 2016 case. Plaintiff can pursue all his claims in the 2016 case.

The Clerk shall remove Documents 17 and 18 from the Court's pending motions list. The Clerk shall close this case.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT